

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION

CHIQUITA MILLER

PLAINTIFF

V.

NO. 1:23-cv-00005-GHD-DAS

SANTANDER CONSUMER USA

DEFENDANT

**ORDER APPROVING IN PART AND ADOPTING IN PART REPORT AND  
RECOMMENDATION**

On consideration of the file and records in this action, the Court finds that the Report and Recommendation [12] of the United States Magistrate Judge dated June 13, 2023, regarding the dismissal with prejudice of this *pro se* action for failure to state a plausible claim, was on that date duly served upon the Plaintiff; and that the Plaintiff's objection thereto has been filed and reviewed by the Court. The Magistrate Judge issued the Report and Recommendation after conducting a hearing on April 27, 2023, pursuant to *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985) to determine if a justiciable basis exists for the Plaintiff's claims [11]. The Court notes that this is the eighth lawsuit the Plaintiff has filed in this District since January 2022.

For the reasons aptly set forth in the Magistrate Judge's Report and Recommendation, the Court is of the opinion that the Report and Recommendation should be approved and adopted as the opinion of the Court, other than the Magistrate Judge's recommendation that the Plaintiff be sanctioned and prohibited from filing any further lawsuits in this District without the Chief Judge's express written consent. The Court is of the opinion that the Plaintiff has shown sufficient good cause to avoid such a non-monetary sanction at this juncture. Should the Plaintiff continue to file meritless complaints, however, this sanction may become appropriate at a future time.

As for the merits of the Plaintiff's claims, as was the case with two of the Plaintiff's earlier complaints that were dismissed for failure to state a plausible claim, the Plaintiff's Complaint in this matter contains solely conclusory allegations without specific factual assertions to support her conclusions, and thus simply does not state a plausible claim for relief. The Court shall therefore dismiss the Plaintiff's claims with prejudice. See, e.g., *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) (holding that a legally sufficient complaint must establish more than a sheer possibility that the plaintiff's claim is true); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (holding that complaint must go beyond formulaic recitations of the elements of a cause of action, labels, or legal conclusions); *In re Great Lakes Dredge & Dock Co. LLC*, 624 F.3d 201, 210 (5th Cir. 2010) (holding that “[t]o be plausible, the complaint's factual allegations must be enough to raise a right to relief beyond the speculative level.”).

The Court therefore **ORDERS** the following:

- 1) the Report and Recommendation [12] of the United States Magistrate Judge dated June 13, 2023, is hereby approved and adopted as the opinion of the Court, other than the recommendation for the imposition of non-monetary sanctions, which are not imposed at this time; and
- 2) this action is DISMISSED WITH PREJUDICE pursuant to Rule 12(b)(6) of the Federal

Rules of Civil Procedure.

SO ORDERED, this, the 20 <sup>th</sup> day of September, 2023.

  
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SENIOR U.S. DISTRICT JUDGE